

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JENO DIAMOND MONTEZ,

CASE NO. 3:21 CV 643

Petitioner,

v.

JUDGE JAMES R. KNEPP II

JAY FORSHEY, WARDEN,

Respondent.

**MEMORANDUM OPINION AND
ORDER**

This matter is before the Court on Magistrate Judge Thomas M. Parker's Report and Recommendation ("R&R") to dismiss and deny Petitioner Jeno Diamond Montez's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254. (Doc. 11). Specifically, Judge Parker recommends the Court find the Petition time-barred. *See id.*

Under the relevant statute:

Within fourteen days of being served with a copy [of a Magistrate Judge's R&R], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1); *see also* FED. R. CIV. P. 72(b)(2). The failure to file timely written objections to a Magistrate Judge's R&R constitutes a waiver of *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813, 814-15 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

In this case, the R&R was issued on July 18, 2023, and it is now August 22, 2023. Petitioner has neither filed objections nor requested an extension of time to file them. Despite the lack of objections, the Court has reviewed Judge Parker's R&R, and agrees with the findings and

recommended rulings therein. Therefore, the Court ADOPTS Judge Parker's R&R (Doc. 11) as the Order of this Court, and DENIES and DISMISSES Petitioner's Petition (Doc. 4) as set forth therein.

The Court finds an appeal from this decision could not be taken in good faith. 28 U.S.C. § 1915(a)(3). Further, because Petitioner has not made a substantial showing of a denial of a constitutional right directly related to his conviction or custody, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253(c)(2); FED. R. APP. P. 22(b); Rule 11 of Rules Governing § 2254 Cases.

IT IS SO ORDERED.

s/ James R. Knepp II
UNITED STATES DISTRICT JUDGE